

## Message Text

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ORIGIN EB-07

INFO OCT-01 ARA-06 ISO-00 L-03 COME-00 DOTE-00 FEAE-00  
CAB-02 SSO-00 INRE-00 CIAE-00 INR-07 NSAE-00 TRSE-00  
SS-15 NSC-05 NSCE-00 DODE-00 CIEP-01 FAA-00 /047 R

DRAFTED BY EB/OA/AVP:SCKEITER:JO  
APPROVED BY EB/OA:MHSTYLES  
EB/AN - AJRIMAS  
L/EB - PMICKEY  
ARA/ECP - JO'MAHONY  
COMMERCE - EGRAUMAN  
DOT/OST - LNERICSON  
FEA - KBAUER (SUBS)  
CAB/BIA - CCOLDREN  
ARA - JGRUNWALD

----- 044336 /53

O 171403Z DEC 76  
FM SECSTATE WASHDC  
TO AMEMBASSY BRASILIA IMMEDIATE  
INFO AMCONSUL RIO DE JANEIRO IMMEDIATE  
AMCONSUL SAO PAULO IMMEDIATE

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E.O. 11652: N/A

TAGS: EAIR, BR

SUBJECT: AVIATION FUEL TAXES

REF : (A) BRASILIA 10171; (B) BRASILIA 10146;  
(C) BRASILIA 10124; (D) BRASILIA 10108

1. DEVELOPMENTS REPORTED REFTELS APPEAR TO HAVE REMOVED  
ONE PROBLEM, AT LEAST TEMPORARILY, WHILE CREATING NEW  
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ONE.

2. WITH REGARD APPLICATION OF SOLE TAX TO NONSKEDS,  
DEPT SHARES EMBASSY VIEW THAT WE SHOULD ACT ON ASSUMPTION  
THAT PUBLISHED PRICES WILL HOLD, WHILE RECOGNIZING THAT  
APPARENT EXEMPTION OF NONSKEDS MIGHT WELL DISAPPEAR.

DEPT HAS THEREFORE RECOMMENDED THAT A FULL ALLOCATION OF DOMESTIC FUEL FOR VARIG BE CONTINUED, BUT ON A TEMPORARY BASIS. FEA HAS INDICATED THAT IT WILL CONTINUE THE ALLOCATION FOR 90 DAYS, THE MINIMUM FEASIBLE PERIOD FROM A PRACTICAL POINT OF VIEW.

3. DEPT VIEWS IMPOSITION OF NEW AVIATION FUND CHARGE, WHICH IS REALLY A TAX, WITH SERIOUS CONCERN, COMPOUNDED BY APPARENT FAILURE OF BRAZILIAN GOVERNMENT, AS A WHOLE, TO DEAL FRANKLY WITH US ON THIS ISSUE. THE

BILATERAL AGREEMENT IS NOT VERY HELPFUL. THE CLAUSE RELATING TO FUEL TAXES REQUIRES ONLY MOST-FAVORED-NATION AND NATIONAL TREATMENT, CONDITIONS APPARENTLY MET BY THE DECREE. ON THE OTHER HAND, THE "FAIR AND EQUAL OPPORTUNITY" CLAUSE APPEARS TO BAR US FROM REFUSING TO GIVE VARIG ANY DOMESTIC FUEL ALLOCATION OR OTHERWISE RETALIATING AGAINST BRAZILIAN AIRLINES IN A MANNER THAT PLACES THEM AT A DISADVANTAGE WITH RESPECT TO U.S. AIRLINES.

4. ANSWERS TO FOLLOWING QUESTIONS WOULD BE HELPFUL IN DETERMINING ULTIMATE COURSE OF ACTION:

(A) IS THERE ANY INDICATION THAT NEW TAX WILL HAVE LESS IMPACT ON BRAZILIAN INTERNATIONAL AIRLINES THAN ON OUR OWN, AS PERHAPS BY A NEW SUBSIDY ROUGHLY EQUIVALENT TO THE TAX?

(B) WHAT HAS BEEN THE REACTION OF THIRD-COUNTRY AIRLINES LIMITED OFFICIAL USE

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AND EMBASSIES?

(C) DO THE BRAZILIANS REALIZE, OR CARE, THAT THEIR EARLIER DECLARATION TO ICAO, THAT FUEL FOR INTERNATIONAL AVIATION IS NOT TAXED, HAS BEEN ENTIRELY REPUDIATED BY THE IMPOSITION OF THIS CHARGE?

(D) REF D IS NOT COMPLETELY CLEAR IN ABSENCE OF PREVIOUS LEGISLATION REFERRED TO. CAN EMBASSY ELUCIDATE?

(E) WHAT IS THE AVIATION FUND? IS IT NEW? (WE ASSUME THAT THE NEW CHARGE IS INTENDED TO BE PERMANENT.)

(F) IS IT CORRECT TO CONCLUDE FROM REFTELS THAT BRAZILIAN DOMESTIC AIRLINES WILL PAY AT SAME RATE AS INTERNATIONAL LINES, BOTH BRAZILIAN AND FOREIGN?

5. IN MEANTIME, UNLESS EMBASSY SEES OBJECTION, REQUEST

EMBASSY MAKE REPRESENTATIONS AT GOB LEVEL IT CONSIDERS  
APPROPRIATE, ALONG FOLLOWING LINES:

(A) USG IS PLEASED THAT ITS AIRLINES, INCLUDING THOSE  
NOT DESIGNATED UNDER THE BILATERAL, ARE NO LONGER BEING  
REQUIRED TO PAY THE SOLE TAX.

(B) IT IS SORELY DISAPPOINTED THAT THIS DEVELOPMENT WAS  
ACCOMPANIED BY THE IMPOSITION OF A TAX ON ALL AVIATION  
FUEL. IT HAS BEEN OUR UNDERSTANDING, SUPPORTED BY 30  
YEARS' OF EXPERIENCE AND BRAZIL'S DECLARATION ON THIS  
SUBJECT TO ICAO, THAT BRAZIL SHARED THE GENERAL VIEW

THAT FUEL USED IN INTERNATIONAL AVIATION SHOULD NOT BE  
TAXED.

(C) IMPOSITION OF THE TAX ON U.S. AIRLINES SEEMS UNFAIR  
WHEN VARIG IS ALLOWED ACCESS, WITHOUT PAYMENT OF TAXES,  
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TO DOMESTIC FUEL IN THE U.S., AT PRICES BELOW THOSE  
CHARGED INTERNATIONALLY.

(D) THE NEW TAX IS A PARTICULAR BLOW TO OUR AIRLINES,  
WHO ARE ALREADY SUFFERING IN THEIR SERVICES TO BRAZIL  
AS A RESULT OF THE INCREASE IN THE FUEL PRICE WHICH  
ACCOMPANIED IMPOSITION OF THE NEW TAX, THE RESTRAINTS  
PUT ON BRAZILIAN TRAVEL THROUGH THE PRIOR DEPOSIT  
REQUIREMENT, AND VARIOUS BRAZILIAN ADMINISTRATIVE  
PRACTICES. THEIR FUEL TAX PAYMENTS WOULD BE WELL OVER  
1 MILLION DOLLARS A YEAR. THESE DEVELOPMENTS PUT IN  
QUESTION THE VALUE OF THEIR ROUTE RIGHTS TO BRAZIL.

(E) THE UNITED STATES IS VERY MUCH DISTURBED THAT IN  
OUR CONTINUING DISCUSSION OF AVIATION FUEL TAXES OVER  
THE PAST SIX MONTHS IT WAS NEVER TOLD THAT A GENERAL  
AVIATION FUEL TAX WAS UNDER CONSIDERATION.

(PLEASE ADVISE TO WHOM REPRESENTATIONS MADE.)

6. FYI: PAN AM IS VERY EXERCISED OVER THIS DEVELOPMENT.  
ITS REPRESENTATIVE HAS CHARACTERIZED IT AS "INFLAMMATORY"  
AND "A SLAP IN THE FACE". PAN AM REPORTS THAT THE FUEL  
PRICE INCREASE ITSELF IS 2.6 CENTS PER GALLON, AND THE  
NEW TAX 4.7 CENTS PER GALLON. END FYI.  
ROBINSON

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